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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,687	12/14/2001	Joseph Robert Cleveland	SAMS01-00169	2991

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03/21/2006

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER

LIU, JONATHAN

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Period for Reply

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-54 and 58-68 is/are rejected.
- 7) ☒ Claim(s) 55-57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/14/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's paper filed 01/06/2006. Claims 37-68 as amended are currently pending in the application. Applicant has cancelled claims 1-36, and added claims 37-68.

Claim Objections

1. Claims 51, 63 objected to because of the following informalities:

Regarding claim 51, examiner is not sure claim 51 is dependent on claim 49 or 53.

Regarding claim 63, "as set forth in claim 61" repeated twice, and one of them should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 40-41, 47-48, 52-53, 59-60, 63-64, 67-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase, "second channel is greater than fourteen and one tenths kilobits per second" recited in claims 40, 47, 52, 59, 63, 67 are indefinite because the range is unspecified and applicant should not claim the value might be potentially infinity.

The phrase, "second higher data rate is greater on said second channel is greater than seventy two kilobits per second" recited in claims 41, 48, 53, 60, 64, 68 are indefinite because the range is unspecified and applicant should not claim the value might be potentially infinity.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 37-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Felix et al. (US Pat No. 5,966,384.) The claim utilizes the language, "capable of" for describing the base station. The phrase, "capable of" does not require all of the details that follow it. The rejection below relies on a reasonably broad interpretation of the claim, taking into account the "capable of" language present in the claim.

Regarding claim 37, Felix et al. discloses an apparatus for use in a wireless network communications system (See Fig. 1), an apparatus for increasing a data

Art Unit: 2663

transmission rate in a mobile wireless communication channel (See col 3, lines 60-63.),

said apparatus comprising a base station (100, Fig. 1) that is capable of :

sending data packets to a mobile station on a supplemental channel at a first data rate;

receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet;

sending at least one replacement data packet to said mobile station on said supplemental channel at a second higher data rate; and

communicating with a replacement data packet controller capable of:

receiving said at least one replacement data packet from said base station; and

incorporating said at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet.

Regarding claims 37-41, Felix et al. teach base station (100, Fig.1.) The limitations set forth in claims 38-41 would not be further considered because claims utilizing the language of "capable of."

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 42-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Reziifar et al.(US Pat No. 6,377,809.) The claim utilizes the language, "capable of" for describing the first/second base stations. The phrase, "capable of" does not require all of the details that follow it. The rejection below relies on a reasonably broad interpretation of the claim, taking into account the "capable of" language present in the claim.

Regarding claims 42-48, Reziifar et al. teach for use in a wireless network communications system, an apparatus for increasing a data transmission rate during handing off (col 1-2,lines 62-15.), said, apparatus comprising: a first base station, second base station (See Fig. 2,5A,B)

8. Claims 61-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Dahlman et al. (US Pat No.6,907,005.) The claim utilizes the language, "capable of" for describing the replacement data packet acquisition/integration application and apparatus. The phrase, "capable of" does not require all of the details that follow it. The rejection below relies on a reasonably broad interpretation of the claim, taking into account the "capable of" language present in the claim.

Regarding claims 61-68, Dahlman et al. discloses for use in a wireless network communications system, an apparatus for increasing a data transmission rate (See Fig. 6 and 9.), comprising: a main controller (620, Fig. 9) and a replacement data packet acquisition/integration application executable by main controller (Dahlman et al. teach retransmission the packet by responding the message sent by controller of the motile station. See col 8, lines 8-25.)

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 49-51, 54, 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Felix et al (US Pat No. 5,966,384), in view of Dahlman et al. (US Pat No. 6,907,005.)

Regarding claims 49, 54, Felix et al. teach for use in a wireless network communications system, a method for increasing a data transmission rate in a mobile wireless communication channel during hand off (See Fig. 6), said method comprising the steps of:

sending data packets from a base station to a mobile station on a first channel at a first data rate; (Felix et al. teach sending the data from base station at a first data rate on the first bandwidth as the fundamental channel. See col 4, lines 1-30.)

receiving a negative acknowledgment signal from said mobile station that said mobile station failed to correctly receive at least one data packet; (See col 4, lines 42-54.)

sending at least one replacement data packet to said mobile station on said second channel; and wherein said at least one replacement data packet into a data packet stream to replace one of: a missing data packet and an error data packet. (Felix

et al. teach retransmitting the data because the hold state, which is missing data packet, and error data packet. See col 4, lines 1-50.)

Felix et al. does not specifically teach retransmitting data on the second higher rate and However, Dahlman et al. teach higher data rate/bandwidth may be required while mobile terminal request information from a computer attached to the Internet (col 7, lines 21-42, Dahlman et al.) Dahlman et al. also teach two base stations communication through RNC and also communicate with mobile station (See Fig. 8, Dahlman et al.) Therefore, it would have been obvious to one who has ordinary skill in the art at the time the invention was made to increase the retransmission rate while most of the mobile terminal are computer basis with Internet.

Regarding claim 50, Felix et al. teach receiving the acknowledgement signal from mobile station that mobile station has received the intended data packet from said base station (See col 4, lines 42-47) In response to acknowledgement, if the data received, the transmission would stop and continue to send as the new cycle, and that would send the data packet on a first data rate (See Fig. 5.)

Regarding claims 51, 58, Felix et al. teach the channel could be fundamental or supplemental channel (See Fig. 1)

Allowable Subject Matter

11. Claims 55-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Liou whose telephone number is 571-272-8136. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan Liou

3/15/2006



RICKY Q. NGO
SUPERVISORY PATENT EXAMINER